

Federal Acquisition Regulation

25.302-4

25.302 Contractors performing private security functions outside the United States.

[78 FR 37672, June 21, 2013]

25.302-1 Scope.

This section prescribes policy for implementing section 862 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2008 (Pub. L. 110-181), as amended by section 853 of the NDAA for FY 2009 (Pub. L. 110-417), and sections 831 and 832 of the NDAA for FY 2011 (Pub. L. 111-383) (see 10 U.S.C. 2302 Note).

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25.302-2 Definitions.

As used in this section—

Area of combat operations means an area of operations designated as such by the Secretary of Defense when enhanced coordination of contractors performing private security functions working for Government agencies is required.

Other significant military operations means activities, other than combat operations, as part of a contingency operation outside the United States that is carried out by United States Armed Forces in an uncontrolled or unpredictable high-threat environment where personnel performing security functions may be called upon to use deadly force (see 25.302-3(b)(2)).

Private security functions means activities engaged in by a contractor, as follows—

(1) Guarding of personnel, facilities, designated sites, or property of a Federal agency, the contractor or subcontractor, or a third party; or

(2) Any other activity for which personnel are required to carry weapons in the performance of their duties in accordance with the terms of the contract.

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25.302-3 Applicability.

(a) *DoD*: This section applies to acquisitions by Department of Defense components under a contract that requires performance—

(1) During contingency operations outside the United States;

(2) In an area of combat operations as designated by the Secretary of Defense; or

(3) In an area of other significant military operations as designated by the Secretary of Defense, and only upon agreement of the Secretary of Defense and the Secretary of State.

(b) *Non-DoD agencies*: This section applies to acquisitions by non-DoD agencies under a contract that requires performance—

(1) In an area of combat operations as designated by the Secretary of Defense; or

(2) In an area of other significant military operations as designated by the Secretary of Defense, and only upon agreement of the Secretary of Defense and the Secretary of State.

(c) These designations can be found at http://www.acq.osd.mil/dpap/pacc/cc/designated_areas_of_other_significant_military_operations.html and http://www.acq.osd.mil/dpap/pacc/cc/designated_areas_of_combat_operations.html.

(d) When the applicability requirements of this subsection are met, contractors and subcontractors must comply with 32 CFR part 159, whether the contract is for the performance of private security functions as a primary deliverable or the provision of private security functions is ancillary to the stated deliverables.

(e) The requirements of section 25.302 shall not apply to—

(1) Contracts entered into by elements of the intelligence community in support of intelligence activities; or

(2) Temporary arrangements entered into on a non-DoD contract for the performance of private security functions by individual indigenous personnel not affiliated with a local or expatriate security company. These temporary arrangements must still comply with local law.

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25.302-4 Policy.

(a) *General*. (1) The policy, responsibilities, procedures, accountability, training, equipping, and conduct of personnel performing private security functions in designated areas are addressed at 32 CFR part 159, entitled “Private Security Contractors (PSCs)